

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN SECTION
OF TENNESSEE AT KNOXVILLE**

THOMAS GIRDLESTONE,

Plaintiff,

v.

Civil Action No.: 3:09-CV-530

JURY DEMANDED

ACE USA, a/k/a
ACE GROUP &
ACE WESTCHESTER,
d/b/a ILLINOIS UNION INSURANCE

Defendants.

MOTION TO AMEND COMPLAINT

COMES NOW the Plaintiff in this cause, Thomas Girdlestone, by and through under-signed counsel and pursuant L.R.15.1, as well as F.R.C.P. § 15 would move this Honorable Court for leave to amend his original complaint filed in the Knox County Chancery Court before being removed to this Honorable Court pursuant to diversity jurisdiction. Movant would show that he has filed a Motion to Strike Defendant's pending Motion to Dismiss for failure to comply with its own insurance policy requirement that disputes arising out of the policy shall be submitted to alternative dispute resolution ("ADR"), i.e. non-binding arbitration or binding arbitration. Defendant to this point, despite three (3) requests from the Plaintiff in this cause, has refused to enter into ADR. Plaintiff has already raised this issue of the Defendant's bad faith conduct in

his complaint, as well as his Motion to Strike. Defendant has made its intention clear that it intends to file a response in opposition to the Plaintiff's motion seeking ADR and accordingly, Plaintiff files this Motion seeking leave to amend his original complaint.

WHEREFORE, PREMISES CONSIDERED, MOVANT PRAYS THAT HE BE GRANTED LEAVE TO AMEND AND BE ALLOWED TO FILE THE ATTACHED AMENDED COMPLAINT HEREWITH.

Respectfully submitted,

LAW OFFICE OF RUSSELL L. EGLI

/s/ *Russell L. Egli*

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CERTIFICATE OF SERVICE

I, the under-signed authority, certify that a true and accurate copy of this pleading filed through the ECF has been transmitted electronically or by other means to the following:

Robert Bowman, Esq.
Via ECF electronic transmission

Jessica Tyndall, Esq.
5410 Trinity Road, Suite 116
Raleigh, NC 27607

Greg Brown, Esq.
5410 Trinity Road, Suite 116
Raleigh, NC 27607

This the 10th day of February 2010.

/s/ **Russell L. Egli**
Russell L. Egli